

UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

BALLY TOTAL FITNESS HOLDING )  
CORPORATION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
LIBERATION INVESTMENTS, L.P., )  
LIBERATION INVESTMENTS, LTD., )  
LIBERATION INVESTMENT GROUP LLC )  
and EMANUEL R. PEARLMAN, )  
 )  
Defendants. )  
 )  
Civil Action No. 05-841-JJF

**PLAINTIFF'S NOTICE OF DISMISSAL**

Pursuant to Fed. R. Civ. P. 41(a)(1), Plaintiff Bally Total Fitness Holding Corporation hereby voluntarily dismisses this action without prejudice.

Date: January 31, 2006

Respectfully submitted,

  
*Elizabeth C. Tucker*  
One of the Attorneys for Plaintiff  
Bally Total Fitness Holding Corporation

Gregory P. Williams (#2168)  
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-and-

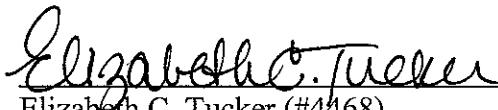
Laurie B. Smilan  
LATHAM & WATKINS LLP  
11955 Freedom Drive, Suite 500  
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**CERTIFICATE OF SERVICE**

I, Elizabeth C. Tucker, hereby certify that I caused copies of the foregoing PLAINTIFF'S NOTICE OF DISMISSAL to be served by CM/ECF upon:

STEPHEN E. JENKINS, ESQ.  
Ashby & Geddes  
222 Delaware Avenue  
Wilmington, DE 19899

on this 31<sup>st</sup> day of January, 2006.

  
Elizabeth C. Tucker (#4468)  
Tucker@rlf.com